

99-2506
Order

PLAINTIFFS' DESIGNATION OF STEVEN RAY PEACE

(Counter-Designations in italicized text)

Deposition April 7-8, 2005

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6:11-13					
9:1-4					
10:1-9					
10:23-25					
12:13-15					
183:5-7					
183:9-11					
337:1-14					
338:16-339:9					

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339:11-17					
339:25-340:9					
95:19-96:10 Exh. 535					
112:4-12					
			112:13-14		
			112:16-23		
113:12-13					
113:15-16 (through "and ability")					

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			113:16 (beginning with "Like")-25		
98:5-98:15					
			98:16-99:13	Lacks foundation, speculation. Peace testifies to what he "most likely was referring to," showing that he did not actually recall. He further testified that he "probably left the barge," again showing that he was guessing about his actions.	There is adequate foundation for this witness' testimony regarding Exhibit 535, a document that this witness wrote. His description of the document is not speculative. The witness does not need to be absolutely certain about the meaning of particular entries, and any modest limitation in his recall would go to the weight, not admissibility of his

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			58:13-59:12; 59:14-24 (necessary to understand plaintiffs' next designation)	Lacks foundation, speculation. Peace testifies to his "belief" that there was a proposal, which he speculates came from Parkin, but states: "I don't know any of the details of that." Peace never identified who supposedly told him about a "hypothetical situation" in which the military was coming. Hearsay 	There is more than sufficient foundation for this witness to testify regarding communications he received from Mr. Parkin and others in Escranos during the incident. His testimony is based on his own recollection, and perfect recollection is not required. Any modest limitations in his recall go to the weight of the testimony, not admissibility. This testimony is not hearsay because it is not offered for the truth.

Out of order!

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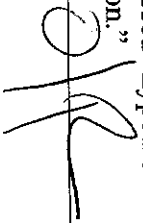
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101:8-23					
			101:24-25 102:2-10	Same objections as to defendants' designation above regarding the "hypothetical military strike." Lacks foundation, speculation. Peace testifies here, "I think it was only mentioned in a 'what if situation,' showing that he has no real recall of what was suggested	This testimony is essential to understand the testimony designated by plaintiffs at 101:8-23. Plainly, there is adequate foundation for this witness to describe what he meant in the testimony that plaintiffs have designated. There is nothing speculative about his clarification and, to the extent the witness has any modest limitations in his recollection, those limitations go to the weight, not admissibility, of the evidence.

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145:22-24					
146:3-21 (through "community people")					
		146:21 (beginning with "More")- 147:2			
		148:16-149:8			
		149:23-150:15			
150:19-152:5					
		153:16-154:6			

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154:7-13					
			154:14-17	Same objections as to defendants' designation above regarding the "hypothetical military strike." Lacks foundation, speculation. Here, Peace states, "this was most likely a speculation or a hypothetical situation if military assistance was employed....But that's seven years ago." This testimony shows he has no actual recollection of a supposed "hypothetical situation."	This testimony immediately follows and is essential to understanding the testimony plaintiffs have designated at 154:7-13. There is more than adequate foundation for this witness to clarify what he meant in the testimony plaintiffs have designated. Any modest limitations in this witness' recollections go to the weight, not admissibility, of the testimony.



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			169:20-170:22	<p>This designation is beyond the scope of plaintiffs' direct designations and bears no relation to plaintiffs' designation at 154:7-13.</p> 	<p>This designation is well within the scope of plaintiffs' direct, which inquires into the details surrounding this witness' experiences during the incident. It is closely related to many of plaintiffs' designations.</p>
177:10-24					
			178:2-6		
61:10-17					
256:23-257:3					
			61:20-62:2		

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63:4-6					
63:7-13					
63:21-64:2					
64:14-16 (through "Yes")					
65:6-11					
66:9-15					
67:6-8					
67:12-13					
67:21-23					

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68:1-6					
257:23-258:11					
259:21-260:1					
			364:11-14		
			364:16-365:15		
			365:17-366:12		
			366:21-367:2		
			367:5-21		
			367:24-368:4		

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367:5-9					
260:14-18					
266:13-267:11					
267:13-20					
358:14-17					
358:20-21					
392:3-7					
392:10-14					
392:16-18					
392:21-393:19					

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			370:20-371:1	<p>??</p> <p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p>01R</p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>
			371:5-8	<p>Beyond the scope of plaintiffs' original designations. If this objection is not</p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the</p>

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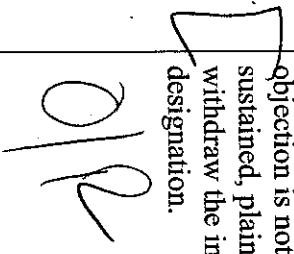
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			70	sustained, plaintiffs withdraw the initial designation. O/R	witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.
			371:10-23 70	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation. O/R	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which

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					presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.
			372:14-17	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation. 	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope

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					of the entirety of plaintiffs' direct designations.
		372:19-373:1		<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> 	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>

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			373:3-13	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation. 	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.
			389:2-6	Beyond the scope of plaintiffs' original designations. If this objection is not	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the

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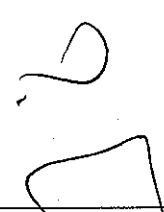

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			389:17-23	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which

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		390:19-391:19		Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation. 	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope

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					of the entirety of plaintiffs' direct designations.
		396:4-7		<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> 	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>

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			396:9-10	<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p align="center"><i>OK</i></p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>